

**MINUTES**  
**BOARD FOR LICENSING HEALTH CARE FACILITIES**  
**August 4, 2004**

The Board for Licensing Health Care Facilities was called to order by Dr. James T. Galyon on August 4, 2004, commencing at 9:00 a.m.

Ms. Green called the roll to establish a quorum.

Dr. James T. Galyon, Chairman Pro Ten  
Mr. Ron Arrison  
Ms. Charlotte Burns  
Ms. Elizabeth Chadwell  
Dr. Clifton Exum  
Mr. Robert Gordon  
Mr. James Hastings  
Dr. Terry Horgan  
Mr. Albert Jones  
Ms. Nancy Peace  
Ms. Geraldine Smelcer  
Dr. Roxane Spitzer  
Dr. Joe T. Walker  
Ms. Bettye Zier

Members not present:

Dr. Larry Arnold, Chairman  
Dr. Duane Budd  
Dr. Douglas Leahy  
Ms. Annette Marlar  
Dr. Jon Winter

Present and representing the Office of General Counsel:

Mr. Ernie Sykes

Also present:

Ms. Cathy Green, Director, Board for Licensing  
Ms. Judy Eads, Assistant Commissioner  
Ms. Wanda Hines, Board Administrator  
Ms. Faye Vance, East TN Regional Administrator  
Ms. Shirley Jones, West TN Regional Administrator  
Ms. Nina Monroe, Middle TN Regional Administrator  
Mr. Bill Harmon, Director of Engineering

A quorum was established by roll call vote.

### **APPROVAL OF MINUTES**

The first order of business was approval of the May 5, 2004 minutes.

Motion was made by Mr. Gordon, seconded by Mr. Arrison to approve the minutes as written.

Motion carried.

### **DISCUSSION**

#### **McKinney Care Homes 1 & 2**

Ms. Laurie Doty from the Office of General Counsel received the original agreed signed order from Ms. McKinney and her attorney in which Ms. McKinney has agreed to revocation in lieu of a hearing. Ms. Doty gave copies of the Agreed Order to the board members and asked the board to ratify it. Ms. Doty stated Ms. McKinney agreed to certain facts which would constitute the violation of law which was the subject of the summary suspension that we had in January and has agreed to the fact that she violated the law and has agreed to the violation of both licenses. The third license has already lapsed and is not eligible for renewal. Dr. Galyon questioned if Ms. McKinney will be before the Board again? Ms. Doty stated only if Ms. McKinney is applying for a new license.

Motion was made by Dr. Walker, seconded by Bettye Zier that the Agreed Order be approved.

Motion carried unanimously by roll call vote.

Ms. Doty added that she know that the board members came expecting that possibly this case was going to trial. As of two days ago, there was simply no possibility of settlement. We would have tried to make some adjustments because we know the board members' time is valuable and she really appreciate it. She stated it was literally at eight o'clock this morning before things got settled. Dr. Gaylon acknowledges Ms. Doty's efforts.

### **REPORTS TO THE BOARD**

#### **Legislation**

Mr. Ernie Sykes, OGC gave an overview of the detailed legislative action plan that the 103<sup>rd</sup> General Assembly passed affecting health care facilities including licensing outpatient diagnostic centers, certification of state fire safety specialists, and sprinkler bills, a very high priority. Several new laws were enacted dealing with the sprinkler and fire safety legislation. Ms. Green informed the board members that the Department sent a letter to all nursing homes, assisted living, and residential homes for the aged that were either partially sprinkler or not sprinkler at all to give them a time line because the statutes are confusing. A copy of the statute as well as a letter was sent. Mr. Sykes also discussed other legislation regarding the do-not-resuscitate order, disabilities as well as the Health Care Decisions Act. Several board members had questions regarding several legislation matters.

Ms. Green introduced new board member Ms. Nancy Peace, Director of Commission on Aging.

### **Trauma Care Advisory Council**

Mr. Joe Phillips, Director of EMS, reported on the trauma care system. The Tennessee Trauma Care System Plan is completed and the number one objective of this plan is to create a State trauma registry where we can actually analyze patient data throughout the system has been implemented. We develop the capability to not only look at the trauma patient data but to link with other databases, we will be providing reports to you and others on this. Ms. Green stated that the Board needed to take an official vote to codify the proxy vote that the board members did via mail. Several board members complimented Mr. Phillips and the people who worked endlessly on this excellent report and the improvement in trauma care year after year.

Motion was made by Dr. Walker, seconded by Mr. Arrison to approve or at least ratify the prior approval that we had for accepting the Tennessee Trauma Care System Plan.

Motion carried unanimously by roll call vote.

### **Nurse Aide Training**

Ms. Jacqueline Johnson presented the Nurse Aide Training Program report.

### **Department Report**

Ms. Green welcomed Ms. Wanda Hines, new board administrator for Health Care Facilities.

Ms. Green discussed how the Department is complying with one of the fire safety or sprinkler statutes that state that we will post the sprinkler status of nursing homes, assisted living, and RHAs on our website. Hospitals have been working closely in providing this information. This is a new feature on our website. We will be working with Bill Harmon, Director of Engineering to review those plans when submitted. Ms. Green gave an update on unusual events report. The second quarter report was not available at this time. Also, Ms. Green wanted to inform the Board that a project that the Department is working on is to try to be selected as a state through the Agency on Health Research and Quality. The agency have been putting together a partnership between state agencies and hospitals across the nation. We are looking forward to being selected. The Patient Safety Conference is scheduled August 26, 2004 at Loew's Vanderbilt. We encourage the board members to attend or send appropriate staff. The Patient Safety Report is not finalized. Many of the areas of improvement are in conjunction with people who are actually using the electronic system. We continue to improve the electronic system by further refinement.

## **DISCUSSION**

### **Adoption of New Building Codes**

The codes from the State Fire Marshall's Office effective June 2, 2004, the 2003 edition of the National Fire Codes; and the NFPA Standards published by the NFPA were presented to the Board for adoption. Bill Harmon, Director of Engineering answered questions from the Board

regarding the standard building codes, NFPA standards and the National Fire Codes. The Board deferred action at this time.

## **REGULATIONS**

### **Board Approval for Rulemaking-Building Construction and Renovation**

Ms. Eads informed the Board that our state participated in a conference in Seattle to choose a project around patient safety. Also, to study how building standards can be revised to keep patient safety in mind. Ms. Eads discussed the task force she pulled together with hospitals, nursing homes, and architects and the results of studying the rules and regulations. The group recommended changes brought to the Board to building standards as outlined for the Board.

Motion was made by Mr. Arrison, seconded by Dr. Spitzer to:

**Send the proposed safe practices in building construction and renovation for hospitals, nursing homes, ASTCs, RHAs, residential hospice, residential rehab, halfway house, residential detox, birthing centers, ACLF, HIV supportive living, ESRD rules to rulemaking changing and deleting the word “most current” in that particular paragraph for each. As well as deleting paragraph (9) or whichever appropriate paragraph that is in whichever rule.**

Motion carried.

### **Board Approval for Rulemaking Hearing Regarding Health Care Decision Act**

Ms. Green stated that the task force group on the advanced directives has actually proposed these rules by looking at the statute. There are additional revisions which will be included at the rulemaking hearing. The group is very interested in getting these processed and through rulemaking hearing as soon as possible so our rules and our new statute would not conflict with each other.

Motion was made by Mr. Gordon, seconded by Mr. Jones to:

**Reflect the language of the Health Care Decision Act being forwarded to rulemaking hearing which includes all the institutions and facilities the Board had discussed. Forms for DNR, Living Wills will be brought to the Board in November.**

Motion carried.

### **Board Approval for Rulemaking Hearing Regarding Fees**

The Department asked for Board approval to revise rules to reflect the statute changes effecting RHA fees for less than 6 beds and approve for rulemaking hearing.

Motion was made by Mr. Arrison, seconded by Ms. Zier to:

**Forward RHA rules to reflect the statute changes effecting RHA fees for less than 6 beds for rulemaking hearing.**

Motion carried.

### **Board Approval for Rulemaking Regarding Records and Reports**

Ms. Green informed the Board that there is an addition due to the statutory change and it is Public Chapter 654 that changes the time line for hospitals to report their joint annual report information within 105 days after the close of their fiscal year. It also requires the hospital financial auditor to submit a notarized statement or document that states the financial data is consistent with audited financials. Since this is a statutory change the Board needs to approve hospital rules to go to rulemaking.

Motion was made by Mr. Gordon, seconded by Dr. Walker to:

### **Forward hospital rules to rulemaking hearing.**

Motion carried.

### **Board Approval for Final Filing**

Ms. Green informed the Board that this has already been through rulemaking and this request came from the hospital association to add this into our rules to allow out-of-state practitioners to order diagnostic testing. Attorneys for the health related boards were concerned about this language and proposed some alternative language and wanted to separate outpatient laboratory testing and outpatient diagnostic testing. Mr. Sykes stated that the physicians for the Board of Medical Examiners were concerned the way the proposed rule was worded, it was vague and might allow unauthorized practice of medicine in Tennessee. Mr. Sykes redrafted the rule to separate outpatient laboratory testing and outpatient diagnostic testing and specifying by statute and by rule reference which satisfied the Board of Medical Examiners.

Motion was made by Dr. Walker, seconded by Dr. Exum approval of the revised rules returned from the rulemaking hearing to go for final filing.

Motion carried by roll call vote.

### **WAIVER REQUESTS**

Ms. Green gave a brief summary of each of the following waiver requests:

#### **Sunbridge of Fayetteville, Fayetteville**

Request was made to allow Robert M. Kraft to serve as administrator of this seventy-nine (79) bed licensed nursing home until he can obtain his Nursing Home Administrator's license. He was scheduled to appear before the BENHA Board on August 3, 2004 meeting. Mr. Kraft was not aware he was supposed to appear before the BENHA board on August 3, 2004.

Motion was made by Mr. Arrison and seconded by Dr. Walker to:

**Grant a ninety (90) day waiver to allow Mr. Kraft to serve as administrator of Sunbridge of Fayetteville while completing his application for his Tennessee nursing home administrator's license.**

Motion carried.

**Sycamore Terrace Retirement Community, Nashville**

Sycamore Terrace is a fifty-five (55) bed assisted-care living facility who is requesting a waiver to allow deadbolt locks in residents' rooms. This would be an exception to NFPA 101-7.2.1.5.4 and state regulations 1200-8-25-.08(1). Mr. Bill Harmon, Director of Engineering advises the Board that the life safety code will permit this type of locking arrangements. It was determined that this request did not require a waiver.

**Heartland of Memphis, Memphis**

HCR Manor Care is requesting a hardship waiver for Mary Ann Crocker to serve as an interim administrator for Heartland of Memphis, a two hundred eleven (211) bed facility, until a replacement can be found. Ms. Crocker is applying for a NHA license in Tennessee.

Motion was made by Mr. Arrison, seconded by Dr. Spitzer to:

**Grant a ninety (90) day waiver to allow Ms. Crocker to serve as administrator of Heartland of Memphis while completing her application for her Tennessee nursing home administrator's license.**

**CONSENT CALENDAR**

**THE FOLLOWING FACILITIES REQUESTED APPROVAL TO PROVIDE ADULT DAY CARE:**

**Tri-County Convalescent Home, Inc., Adamsville**

**THE FOLLOWING FACILITIES ARE REQUESTING WAIVERS TO PROVIDE OUTPATIENT THERAPY SERVICES AS PROVIDED FOR BY POLICY 32:**

**Lakeshore-Heartland, Nashville**

**Lakeshore-The Meadows, Nashville**

With all business concluded, Dr. Galyon adjourned the meeting.

Respectfully submitted,

---

James T. Galyon, M.D.